

EXHIBIT 1

INTRODUCTION

Respondent Dick Frank was a successful incumbent candidate for Assessor of the County of San Luis Obispo County in a local election held on March 5, 2002. Respondent Re-elect Dick Frank Assessor (the “Committee”) was the controlled committee of Respondent Dick Frank. Respondent Frank served as the treasurer of Respondent Committee. Respondent Frank was the elected assessor of the County of San Luis Obispo for 26 years, from 1976 through 2003. In May 2004, Respondent Frank was appointed by Governor Arnold Schwarzenegger to serve as a member of the Mission County Formation Commission.

The Political Reform Act (the “Act”)¹ requires candidates and their controlled committees to file periodic campaign statements disclosing the receipt of contributions and the making of expenditures. In this matter, Respondents failed to timely file a semi-annual campaign statement by July 31, 2002, for the reporting period February 17 through June 30, 2002.

For the purposes of this stipulation, Respondents’ violation of the Act is stated as follows:

Respondents Dick Frank and Re-elect Dick Frank Assessor failed to file a semi-annual campaign statement by July 31, 2002, for the reporting period February 17 through June 30, 2002, in violation of Government Code section 84200, subdivision (a).

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns be fully and truthfully disclosed, in order for voters to be fully informed and improper practices inhibited. To that end, the Act sets forth a comprehensive campaign reporting system.

Section 82013, subdivision (a) defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient” committee. Under section 82016, subdivision (a), a recipient committee that is controlled directly or indirectly by a candidate is a “controlled committee.”

Section 84200 requires candidates and their controlled committees to file two semi-annual campaign statements each year. The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

campaign statement covers the reporting period July 1 to December 31, and must be filed by January 31 of the following year. After an election, a losing candidate may terminate his or her obligation to file periodic campaign statements by filing a statement of termination (Form 410). (Section 84214, Regulation 18404.)

Under section 84100 and regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds, are complied with. A committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

SUMMARY OF THE FACTS

This matter arose out of a referral from the San Luis Obispo County Clerk and Recorder's Office. In connection with the March 5, 2002 election, Respondents received \$25,982 in contributions, and made \$26,082 in expenditures.

Respondent Dick Frank, as a candidate, and Respondent Committee, as a controlled committee of Respondent, had a duty to file a post-election semi-annual campaign statement by July 31, 2002, for the reporting period February 17 through June 30, 2002. However, Respondents did not file the required campaign statement by the July 31, 2002 due date.

On August 6, 2002, the San Luis Obispo County Clerk and Recorder's office sent a letter to Respondents notifying them that the semi-annual campaign statement had not been received. On August 19, 2002, the county clerk and recorder's office sent a second letter to Respondents notifying them that the semi-annual campaign statement still had not been received. After receiving no response to the two letters, the county clerk and recorder's office referred the matter to the San Luis Obispo County District Attorney's Office. From September 1 through November 22, 2002, on five separate occasions, the district attorney's office spoke with Respondent Frank's staff at the San Luis Obispo County Assessor's Office advising them of his obligation to file the delinquent campaign statement.

After receiving no response to the efforts made by the district attorney's office, the matter was referred to the Commission. In May 2004, Commission Investigator Charlie Bilyeu spoke with Respondent Frank and advised him to file the semi-annual campaign statement. On June 10, 2004, Respondents filed the late campaign statement. On the semi-annual campaign statement, Respondents disclosed that they received contributions totaling \$8,322, and made expenditures totaling \$20,292 during the period covered by the statement.

By failing to timely file a semi-annual campaign statement by July 31, 2002, for the reporting period February 17 through June 30, 2002, Respondents violated section 84200, subdivision (a).

CONCLUSION

This matter consists of one count of violating section 84200, subdivision (a), which carries a maximum administrative penalty of Five Thousand Dollars (\$5,000).² However, for violations occurring after January 1, 2001, the typical stipulated administrative penalty for the violation of failing to timely file a post-election semi-annual campaign statement has ranged from \$1,500 to \$2,500.

In this matter, Respondents were the subject of a previous enforcement action, FPPC No. 01/404, in which the Commission imposed an administrative penalty of \$3,000 for their failure to file a pre-election campaign statement, and three late contribution reports. In the previous enforcement action, Respondent Frank signed a stipulated settlement agreement in May 2002, just two months before failing to file the semi-annual campaign statement that is the subject of this case. As Respondents have a prior history of violating the Act, imposition of an administrative penalty that is higher than the typical penalty range is appropriate.

Accordingly, the facts of this case justify imposition of the agreed upon penalty of \$5,000.

² On January 1, 2001, the maximum administrative penalty amount increased from Two Thousand Dollars (\$2,000) to Five Thousand Dollars (\$5,000) for violations occurring after that date.